

## § 235.1

235.9 Procurement and property management standards.

235.10 [Reserved]

235.11 Other provisions.

235.12 Information collection/record-keeping—OMB assigned control numbers.

AUTHORITY: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

SOURCE: 41 FR 32405, Aug. 3, 1976, unless otherwise noted.

### § 235.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for making payments of funds to State agencies for use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (7 CFR part 210), the Special Milk Program (7 CFR part 215), the School Breakfast Program (7 CFR part 220), the Child and Adult Care Food Program (7 CFR part 226) and the Food Distribution Program (7 CFR part 250).

(Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

[44 FR 51185, Aug. 31, 1979, as amended by Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995]

### § 235.2 Definitions.

For the purpose of this part, the term:

(a) *Act* means the Child Nutrition Act of 1966, as amended.

(b) *CND* means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

(c) *Department* means the U.S. Department of Agriculture.

(d) *Distributing agency* means a State agency which enters into an agreement with the Department for the distribution of donated foods pursuant to part 250 of this title.

(e) [Reserved]

(f) *FNS* means the Food and Nutrition Service of the U.S. Department of Agriculture.

(g) *FNSRO* means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Serv-

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ice of the U.S. Department of Agriculture.

(h) *Fiscal year* means a period of 12 calendar months beginning October 1, 1976, and October 1 of each calendar year thereafter and ending with September 30 of the following calendar year.

(i) *Institution* means a child or adult care center or a sponsoring organization as defined in part 226 of this chapter.

(j)-(k) [Reserved]

(l) *OIG* means the Office of the Inspector General of the Department.

(m) [Reserved]

(n) *SAE* means federally provided State administrative expense funds for State agencies under this part.

(o) *School* means: (1) An educational unit of high school grade or under, recognized as part of the educational system in the State and operating under public or nonprofit private ownership in a single building or complex of buildings; (2) any public or nonprofit private classes of preprimary grade when they are conducted in the aforementioned schools; (3) any public or nonprofit private residential child care institution, or distinct part of such institution, which operates principally for the care of children, and, if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government, *except for* residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor, and private foster homes. The term "residential child care institutions" includes, but is not limited to: Homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more; or (4) with respect to the Commonwealth of Puerto Rico,

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nonprofit child care centers certified as such by the Governor of Puerto Rico.

(p) *School Food Authority* means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a breakfast or a lunch program therein. The term “School Food Authority” also includes a nonprofit agency or organization to which such governing body has delegated authority to operate the lunch or breakfast program in schools under its jurisdiction, provided the governing body retains the responsibility to comply with breakfast or lunch program regulations.

(q) *Secretary* means the Secretary of Agriculture.

(q-1) *7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement Office of Management and Budget Circulars A-21, A-87, A-102, A-110, A-122, and A-128; the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*); and Executive Order 12372.

NOTE: OMB Circulars, referred to in this definition, are available from the EOP Publications, New Executive Office Building, 726 Jackson Place NW., Room 2200, Washington, DC 20503.

(r) *State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or the Republic of Palau.

(s) *State agency* means (1) the State educational agency or (2) such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer programs under part 210, 215, 220, 226 or 250 of this title. Unless otherwise indicated, “State agency” shall also mean “distributing agency”, as defined in §235.2(d), when such agency is receiving funds directly from FNS under this part.

(t) *State educational agency* means, as the State legislature may determine: (1) The chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a

board of education controlling the State department of education.

(Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776); sec. 205, Pub. L. 96-499, The Omnibus Reconciliation Act of 1980, 94 Stat. 2599; secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1772, 1784, 1760); Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759)

[41 FR 32405, Aug. 3, 1976, as amended at 44 FR 48957, Aug. 21, 1979; 44 FR 51185, Aug. 31, 1979; Amdt. 9, 48 FR 19355, Apr. 29, 1983; Amdt. 14, 51 FR 27151, July 30, 1986; 54 FR 2991, Jan. 23, 1989; Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995]

### §235.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program for payment to States of State administrative expense funds covered by this part. Within FNS, CND shall be responsible for administration of the program.

(b) Each State agency desiring to receive payments under this part shall enter into a written agreement with the Department. Each agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

(Sec. 14, Pub. L. 95-166, 91 Stat. 1338 (42 U.S.C. 1776); sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

[41 FR 32405, Aug. 3, 1976, as amended at 44 FR 48957, Aug. 21, 1979; Amdt. 14, 51 FR 27151, July 30, 1986]

### §235.4 Allocation of funds to States.

(a) *Nondiscretionary SAE Funds*. For each fiscal year, FNS shall allocate the following:

(1) To each State which administers the National School Lunch, School Breakfast or Special Milk Programs an amount equal to one (1) percent of the funds expended by such State during the second preceding fiscal year under sections 4 and 11 of the National School Lunch Act, as amended, and sections 3, 4 and 17A of the Child Nutrition Act of 1966, as amended. However, the total amount allocated to any State under this paragraph shall not be less than \$100,000 or the amount allocated to the